

# EXHIBIT A

<b>CHARGE OF DISCRIMINATION</b>		<b>AGENCY</b>	<b>CHARGE NUMBER</b>
This form is enforced by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	35019200467
State or local Agency, if any			
NAME (Indicate Mr., Mrs., Miss) <b>Mr. Jose A. Parra</b>		HOME TELEPHONE (Include Area Code) <b>(602) 278-2647</b>	
STREET ADDRESS <b>2026 North 50th Drive,</b>		CITY, STATE AND ZIP CODE <b>Phoenix, AZ 85035</b>	
		DATE OF BIRTH <b>3-30-59</b>	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <b>Bashas', Inc.</b>		TELEPHONE (Include Area Code) <b>(480) 895-5265</b>	
STREET ADDRESS <b>P.O. Box 488</b>		CITY, STATE AND ZIP CODE <b>Chandler, AZ 85244</b>	
		COUNTY	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes)		DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/SPA)      LATEST (ALL)	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		<b>10/3/00      9/22/01</b>	
<input type="checkbox"/> CONTINUING ACTION			
THE PARTICULARS ARE (If additional paper is needed, attach extra sheets)			
<p>I am a Hispanic male. I was employed by Megafoods as a journeyman meatcutter when the store was acquired by Bashas', Inc. and made a Food City store. Bashas' employed me as a journeyman meatcutter, and I continue in that position today.</p> <p>As an employee of Bashas', Inc., I believe I have been discriminated against because of my race, Hispanic, and my national origin, Mexican-American with respect to pay, assignment and working conditions.</p> <p>Bashas', Inc. operates food stores under the names of Bashas' and Food City, among others. Although the job I perform for Bashas' at a Food City, journeyman meatcutter, is the same job performed by others at Bashas', I was, until recently, paid less than these similarly situated employees assigned to Bashas'. I believe that this inequity in pay is because of my race, Hispanic, and my national origin, Mexican-American.</p>			
(Continued on attached)			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
<div style="display: flex; justify-content: space-between;"> <span style="font-size: large;">9-26-01</span> <span style="font-family: cursive; font-size: large;">Jose A. Parra</span> </div>		SIGNATURE OF COMPLAINANT	
Date      Charging Party (Signature)		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

**Jose A. Parra**  
**Attachment to Charge of Discrimination**

The working conditions at Food City are inferior to the working conditions at the other stores owned and operated by Bashas', Inc. The equipment at Food City that I am required to use is old and not maintained well. The store is often not maintained in a clean or sanitary manner. I believe Bashas' is kept in a better condition, with more modern equipment and in a cleaner condition. I believe that I have been assigned to work under these conditions because of my race, Hispanic, and my national origin, Mexican-American.

I bring this charge on behalf of myself and similarly-situated Hispanic employees, and employees who are of Mexican or Mexican-American national origin, who I believe receive or received less pay and poorer assignments than white employees.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Jose A. Parra

9-26-01  
\_\_\_\_\_  
Date

## **EXHIBIT B**

UNITED STATES OF AMERICA  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SUBPOENA

TO: Julie Sanford  
BASHA'S  
PO Box 488  
Chandler, Arizona 85244

NO. PHX-06-32

IN THE MATTER OF: Jose A. Parra, Gonzalo Estrada, Gloria Arriaga, Maricruz Rivera, Juana Urbina, Maria Gutierrez, Carmen Lopez  
and Jose Esparada Perez

Charge No. See Exhibit A

Having failed to comply with previous request(s) made by or on behalf of the undersigned Commission official, YOU ARE HEREBY REQUIRED AND DIRECTED TO:

☐ Testify before: ☒ Produce and bring \* or ☒ Mail \* the documents described below to:

☒ Produce access to the evidence described below for the purpose of examination or copying to:

Roberto Rivera, Jr., Investigator of the Equal Employment Opportunity Commission

at 3300 N. Central Ave. Suite 690, Phoenix, AZ 85012 on May 30, 2006 at 2:00 p.m. o'clock

The evidence required is  
See Exhibit A.

received  
6-15-06  
5

This subpoena is issued pursuant to



(Title VII) 42 U.S.C. 2000e-9



(ADBA) 29 U.S.C. 626(a)



(EPA) 29 U.S.C. 209



(ADA) 42 U.S.C. 12117(a)

ISSUING OFFICIAL (Typed name, title and address)

ON BEHALF OF THE COMMISSION

Chester V. Bailey, District Director  
3300 N. Central Ave., Suite 690  
Phoenix, Arizona 85012-1848

*Chester V. Bailey*

*Russell K. Kuo*

MAY 11 2006

Date



\*NOTICE TO PERSON SUBPOENAED - The Commission will not pay witness fees or travel expenses for the delivery of required documents to the Commission office unless the box "Testify before" is also checked on the subpoena.

Attachment to Subpoena No. PHX-06-32

EEOC Charge Nos. 350-A2-00467, 350-A2-00466, 350-A2-00464, 350-A2-00462, 350-A2-00463, 350-A2-00465, 350-A2-00468 and 350-A2-00031

EXHIBIT A

1. Produce all pay scales in effect for any hourly position at Basha's, Inc. stores operated under the name "Basha's" from 1998 to the present.
2. Produce all pay scales in effect for any hourly position at Basha's, Inc. stores operated under the name "A.J.'s" from 1998 to the present.
3. Produce all pay scales in effect for any hourly position at Basha's, Inc. stores operated under the name "Food City" from 1998 to the present.
4. Produce all policies, procedures, collective bargaining agreements and documents pertaining to the establishment of pay scales for hourly positions at Basha's, Food City, and A.J.'s from 1998 to the present.
5. Produce all meeting minutes or notes discussing the pay scales for Basha's, Food City, or A.J.'s from 1998 to the present.
6. Produce the personnel files for Jose A. Parra, Gonzalo Estrada, Gloria Arriaga, Maricruz Rivera, Juana Urbina, Maria Gutierrez, Carmen Lopez and Jose Estrada Perez.
7. Produce all documents or materials reflecting the racial and national origin composition of hourly employees at all Basha's, Food City, and A.J.'s stores in the State of Arizona for all years starting in 1998 to the present, including all EEO- 1 Reports.

MAY 11 2006

Date

*Chester V. Bailey*

*CV* Chester V. Bailey, District Director  
Equal Employment Opportunity Commission  
3300 N. Central Avenue Suite 690  
Phoenix, AZ 85012-9688

received  
6-15-06  
S

## EXHIBIT C



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Phoenix District Office**

3300 N. Central Avenue, Suite 690  
Phoenix, AZ 85012-2504  
(602) 640-5000  
TTY (602) 640-5072  
FAX (602) 640-5071

**DR. JAMES A. HOWARD**

**SEP 13 2006**

**September 12, 2006**

**Stephanie J. Quincy, Esq.  
Sherman & Howard, L.L.C.  
1850 North Central Avenue, Ste. 500  
Phoenix, Arizona 85004**

**Re: Jose A. Parra v. Bashas, Inc. (EEOC Charge No.: 350-A2-00467)  
Gonzalo Estrada v. Bashas, Inc. (EEOC Charge No.: 350-A2-00466)  
Gloria Arriaga v. Bashas, Inc. (EEOC Charge No.: 350-A2-00464)  
Maricruz Rivera v. Bashas, Inc. (EEOC Charge No.: 350-A2-00462)  
Juana Urbina v. Bashas, Inc. (EEOC Charge No.: 350-A2-00463)  
Maria Gutierrez v. Bashas, Inc. (EEOC Charge No.: 350-A2-00465)  
Carmen Lopez v. Bashas, Inc. (EEOC Charge No.: 350-A2-00468)  
Jose Estrada Perez v. Bashas, Inc. (EEOC Charge No.: 350-A2-00031)**

**Dear Esq. Quincy:**

**This letter is to notify you that the above referenced charges have been re-opened pursuant to EEOC Procedural Regulations Section 29, CFR 1601.28a (3). EEOC will now continue to process these charges.**

**Once we have completed our investigations, a determination will be issued and you will be so notified.**

**If you have any questions, please contact Investigator Roberto Rivera, Jr., at your convenience at (602) 640-5065.**

**Sincerely,**

  
**Chester V. Bailey  
District Director**

## **EXHIBIT D**



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Washington, D.C. 20507

Office of the  
Vice Chair

COMMISSIONER'S CHARGE

Pursuant to the authority contained in Sections 706 and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e ("Title VII"), 42 U.S.C. §§ 2000e-5 and 2000e-6, and 29 C.F.R. § 1601.11, I issue this Commissioner's Charge against the following employer:

Bashas' Inc.  
P. O. Box 488  
Chandler, AZ 85244

I believe that the above employer is within the jurisdiction of the United States Equal Employment Opportunity Commission. Further, I have reason to believe that the above employer has, since at least May 2004, violated Title VII by discriminating against Hispanics due to their national origin. This discriminatory activity includes, but is not limited to, failing to pay Hispanic employees comparable wages to non-Hispanic employees and failing to promote Hispanics into Management positions.

The persons aggrieved include all persons who have been adversely affected by the above unlawful practices.

I, Leslie E. Silverman, Commissioner, declare under penalty of perjury that the foregoing is, to the best of my knowledge and belief, true and correct.

Executed on this 9 day of May 2007.

A handwritten signature of Leslie E. Silverman is written over a horizontal line.

Leslie E. Silverman  
Commissioner  
U.S. Equal Employment Opportunity Commission

## EXHIBIT E



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Phoenix District Office**

3300 N. Central Avenue, Suite 600  
Phoenix, AZ 85012-2504  
(602) 640-5000  
TTY (602) 640-5072  
FAX (602) 640-5071

December 6, 2007

Stephanie Quincy  
Steptoe & Johnson  
201 E Washington Street, Ste., 1600  
Phoenix, AZ 85004-2382

Dear Ms. Quincy;

Your description of Bashas Inc.'s automated records has been reviewed. The response was inadequate. For example, it failed to specify, as requested, "the name and commonly understood description of each field or variable on the file". It also failed to provide the "definition of all codes used in the file." However, in order to proceed in a timely manner we are, at this time, requesting some of the data that you described. This does not preclude us from requiring additional data or documentation as the investigation proceeds. The description provided lists in a large number of data files. This list is provided with no explanation and includes a number of files that appear to be redundant.

Our initial request for a detailed description of the files is intended to minimize the burden of providing such information. The failure to fully comply forces us to impose the additional requirements. First, the data provided must cover all of Bashas employees over the past five years with a variable indicating whether or not the employee is currently active. An indication of active employees is normally captured in a variable called STATUS or something similar. Second, the data must include each employee's race and ethnicity. Third, each file provided must include a unique identifier for each employer that serves as a key variable that allows the linking of the different files. While, this type of variable is often a social security number, we are asking that if possible, an alternative employee identification number to be used as an additional safeguard of employee privacy. Fourth, the data files must be structured so that the rows represent employees and the columns represent information about the employee. Each row must contain the employee identification variable. The requested files are listed below; these titles are derived from the column labeled "Description". These descriptions are often repeated in the list you provided without explanation. The data provided must be comprehensive for the all files matching the "Description".

- EMPLOYEE EDUCATION FILE
- EMPLOYEE INCOME FILE
- EMPLOYEE MASTER AUDIT FILE FOR TM

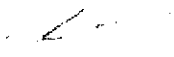
- EMPLOYEE MULTIPLE POSITION FILE
- EMPLOYEE NUMBER CHANGE HISTORY
- EMPLOYEE OJT EDUCATION FILE
- EMPLOYEE PAYROLL MASTER FILE(S)
- EMPLOYEE PERSONNEL MASTER FILE(S)
- EMPLOYEE ROOT MASTER FILE(S)
- EMPLOYEE SUPERVISOR FILE
- PERSONNEL ACTIONS HISTORY FILE
- EMPLOYEE POSITION - SCORE
- PREVIOUS EMPLOYMENT HISTORY
- DISCRIMINATION TESTING EMPLOYEE RANKING WORKFILE
- EMPLOYEE COURSES TAKEN
- HAY JOB EVALUATION FILE
- SUMMARIZED HISTORY INCOME FILE(S)

The data should be provided on compact disk. It may be written in one of the following formats: Excel, Quattro Pro, dBase, Fox Pro, Paradox, Access or ASCII delimited ("csv"). Other formats may be acceptable if approved by the EEOC prior to submission. Regardless of format, we ask that the first row consist of the field or variable names. Compact disks should be clearly labeled to identify the contents. If possible, please print out some of the records, preferably the first 25 observations from each file. A one-page sample of each of the files should be printed and provided. Detailed documentation, explaining all data fields, must be provided. It is acceptable to make this part of the data bases provided. It is also necessary for you to provide a definition of all codes used in the file. (This was requested previously, but not provided.) For example if "M" is used to designate "male" that needs to be specified. This documentation should be provided in an Excel format. If that is not possible, other formats may be acceptable if approved by the EEOC prior to submission.

Finally, Bashas' must produce the following paper records: three complete personnel records retained by the company. This will enable us to make certain that we have successfully converted the automated data.

Please respond by January 7, 2008.

Sincerely,



Charles Rahill  
Investigator  
(602) 640-5068

## EXHIBIT F



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Phoenix District Office

3300 N. Central Avenue, Suite 690  
Phoenix, AZ 85012-2504  
(602) 640-5000  
TTY (602) 640-5072  
FAX (602) 640-5071

February 21, 2008

Stephanie Quincy  
Steptoe & Johnson  
201 E Washington Street, Ste., 1600  
Phoenix, AZ 85004-2382

Dear Ms. Quincy:

Your January 8, 2008 description of Bashas Inc.'s automated records has been reviewed. Please provide the data listed in the appendix that follows. To address your concerns regarding over broad data requests we have attempted to restrict the data requested as much as possible. This does not preclude us from requiring additional data or documentation as the investigation proceeds.

The requests may cover some areas that you might consider irrelevant for two reasons. First, due to an inadequate description of the variables we lack a complete understanding of them. (While your response appears to list variables or fields in the data sets it failed to provide a "commonly understood description of each field or variable on the file". It also failed to provide the "definition of all codes used in the file.") Second, Basha's system appears to be an "off the shelf" system from Infinium. It is possible that Basha's does not use all of the fields or variables included in this system. If that is the case for a requested variable please provide an indication of that. As mentioned above, not all data fields are being requested. However, if you prefer to provide all fields to reduce processing time, that is acceptable. However please redact social security numbers unless it is the sole unique identifier for an employee. Also note that only those date variables described as "8 DIGIT" are requested. Since the documentation was scant, it is assumed that these dates indicate, month, day and year. If this assumption is not correct, please provide for each requested type of date, the format meeting this condition.

The data should be provided on compact disk. It may be written in one of the following formats: Excel, Access or ASCII delimited ("csv"). Other formats may be acceptable if approved by the EEOC prior to submission. Regardless of format, EEOC asks that the first row consist of the field or variable names with subsequent rows for employee observations without blanks or repeating variable names or titles. There should be one column for each variable requested.

For each of the tables (files) produced, provide a definition of each of the fields of information on each record. Also, for each variable or field of information that contains a code to capture the value of the field, please define that code. For example, if "M" is in the field of information called "SEX OF EMPLOYEE," indicate what "M" means. Perhaps, "M" equals "male". These variable and code definitions must be provided in an EXCEL or WORD format or a format approved by the EEOC prior to submission.

The compact disks should be clearly labeled to identify the contents. If possible, please print out some of the records, preferably the first 25 observations from each file. For each compact disk, a paper copy of the directory should be included, indicating the names of the database files, the number of bytes contained in each file, and a log of any queries used to export or import the data. If a computer file requires more than one compact disk, the data should be provided in a manner that does not require that the disks be restored in a particular order. Finally, please provide at least two complete "hard copy" personnel files or print screens for employees (or applicants) who have records on the files that you are providing. This will enable us to make certain that we have successfully converted the automated data.

## APPENDIX

### EMPLOYEE MASTER FILE

<i>FIELD</i>	<i>FIELD DESCRIPTION</i>
PEER	EMPLOYER NUMBER
PEEN	EMPLOYEE NUMBER
PEPLVL	ORGANIZATIONAL LEVEL
PELNM	EMPLOYEE LAST NAME
PEFIT	EMPLOYEE FIRST INIT
PEPPOS	POSITION
PEPNM	PREVIOUS NAME
PEPJB8	LAST JOB CHANGE DATE-8 DIGIT
PEPL01	PREVIOUS LEVEL 1
PEPL02	PREVIOUS LEVEL 2
PEPL03	PREVIOUS LEVEL 3
PEPL04	PREVIOUS LEVEL 4
PEPDD8	LAST LEVEL CHAGNE DATE - 8 DIGIT
PEDOD8	DATE OF DEATH-8 DIGIT
PEPPPO	PREVIOUS POSITION

### EMPLOYEE NUMBER CHANGE HISTORY

EITHER ALL VARIABLES OR STIPUTLATION THAT  
THERE ARE NO CHANGES TO EMPLOYEE NUMBER  
CONTINUED

**EMPLOYEE ROOT MASTER FILE**

<i>FIELD</i>	<i>FIELD DESCRIPTION</i>
PRER	EMPLOYER NUMBER
PREN	EMPLOYEE NUMBER
PRL01	LEVEL 1
PRL02	LEVEL 2
PRL03	LEVEL 3
PRL04	LEVEL 4
PRLNM	NAME - LAST
PRFNM	NAME - FIRST
PRMNM	NAME - MIDDLE INITIAL
PRSTR1	ADDRESS - STREET LINE 1
PRSTR2	ADDRESS - STREET LINE 2
PRCTY1	ADDRESS - CITY
PRSTA1	ADDRESS - STATE
PRSZIP1	ADDRESS - POSTAL CODE
PRDOB8	DATE OF BIRTH - 8 DIGIT
PRSEX	SEX OF EMPLOYEE
PRETH	ETHNIC ID
PREDU	EDUCATION
PRCLN	CLOCK NUMBER
PRDOH8	DATE OF HIRE - 8 DIGIT
PRDHA8	ADJUSTED DATE OF HIRE - 8 DIGIT
PREEO	EEO CATEGORY
PRCLA	CLASS
PRSTAT	STATUS CODE
PRLOC	LOCATION CODE
PRLAC	LABOR CATEGORY
PRPOS	POSITION
PRJOB1	JOB CODE 1
PRJOB2	JOB CODE 2
PRJOB3	JOB CODE 3
PRSR18	SENIORITY DATE 1 - 8 DIGIT
PRSR28	SENIORITY DATE 2 - 8 DIGIT
PRSR38	SENIORITY DATE 3 - 8 DIGIT
PRTITL	POSITION TITLE
PRSFT	USER SHIFT FIELD
PRWCC	WORKMAN EMPL CODE
PRWCN	WORKMAN EMPL NUMBER
PRUCD	UNION CODE
PRUID	UNION ID NUMBER
PRLVC	LEAVE CODE
PRLVD8	LEAVE DATE - 8 DIGIT
PRRLV8	EXPECTED RETURN FROM LEAVE DATE - 8 DIGIT
PRLBRK	LENGTH OF SERVICE BREAK
PRTEC	TERMINATION CODE
PRTED8	TERMINATION DATE - 8 DIGIT

CONTINUED

PRPURG	KEEP PERMANENTLY
PRREC	REHIRE ELIGIBILITY CODE
PRREH8	REHIRE DATE - 8 DIGIT
PRRHR	HOURS REGULARLY WORKED
PRINF	PAY FREQUENCY
PRSRG	SALARY RANGE
PRBRT	BASE PAY RATE
PRPAY	PAY TYPE H-S
PRBRTF	BASE RATE FREQUENCY
PRPGR	PAY GRADE CODE
PRPSTA	PREVIOUS STATUS
PRSCH8	STATUS CHANGE DATE - 8 DIGIT
PRPR	PREVIOUS RATE
PRLRC8	DATE LAST RATE CHANGE - 8 DIGIT
PRLAMT	LAST INCREASE AMOUNT
PRLPER	LAST INCREASE PERCENT
PRRSN	LAST SALARY CHANGE REASON
PRPRAT	PERFORMANCE RATING
PRNRV8	NEXT REVIEW DATE - 8 DIGIT
PRNRVT	NEXT REVIEW TYPE CODE
PREFF8	EFFECTIVE DATE OF SALARY INCREASE - 8 DIGIT
PRRET	RETIREMENT AGE
PRPPLNM	PREVIOUS NAME
PRCOMP	COMP RATIO
PRLDW8	LAST WORKED DATE - 8 DIGIT
PRLAYO	LAYOFF FLAG
PRPROM	PROMOTION CODE
PRRVSC	RATING SCORE
PRPGR8	PAY GRADE DATE - 8 DIGIT
PRSTP	STEP-IN-GRADE
PRSTP8	STEP DATE - 8 DIGIT
PRSTPI	FREEZE STEP
PRNSP8	NEXT STEP DATE - 8 DIGIT
PRNSPO	NEXT STEP OVERRIDE
PRNIC8	NEXT INCREASE DATE - 8 DIGIT
PRCSPT	SHIFT CODE
PRUEL8	UNION ELIGIBILITY DATE - 8 DIGIT
PRSTGP	CAN EEO OCC. GRP.
PRTGRP	TRAINING GROUP
PRAFFH	EFFECTIVE DATE

**SUMMARIZED HISTORY INCOME FILE**  
ALL VARIABLES

CONTINUED

**EMPLOYEE PAYROLL MASTER FILE**


FIELD	FIELD DESCRIPTION
PYER	EMPLOYER NUMBER
PYEN	EMPLOYEE NUMBER
PYYBAS	ANNUAL WAGE BASE
PYCYC	CYCLE CODE
PYPGRS	GROSS PAY LAST YEAR
PYGRS	GROSS PAY YTD
PYNET	NET PAY YTD
PYBRT	PAY RATE - 1ST
PYBRT2	PAY RATE - 2ND
PYBRT3	PAY RATE - 3RD
PYMTYP	PAY RATE BASIS
PYMFAC	MULTIPLIER FACTOR
PYMNAM	MULTIPLIER NAME
PYMCOL	MULTIPLIER COLUMN
PYMROW	MULTIPLIER ROW
PYPAYT	PAY AFTER TERMINATION
PYPAYL	PAY WHILE ON LEAVE
PYWW0	WEEKS WORKED - QUARTER 0
PYWW1	WEEKS WORKED - QUARTER 1
PYWW2	WEEKS WORKED - QUARTER 2
PYWW3	WEEKS WORKED - QUARTER 3
PYWW4	WEEKS WORKED - QUARTER 4
PYPWAG	GROSS WAGES LAST YEAR
PYWAGE	GROSS WAGES YTD
PYPHRS	HOURS LAST YEAR
PYHRS	HOURS YTD

**EMPLOYEE INCOME FILE**

NO DATA REQUESTED AT THIS TIME BUT RESERVE  
RIGHT TO REQUEST DATA AT A LATER DATE

Please respond by March 14, 2008.

Sincerely,



Charles Rahill  
Investigator  
(602) 640-5068

## **EXHIBIT G**

STEPTOE & JOHNSON <sup>LLP</sup>  
ATTORNEYS AT LAW

Stephanie J. Quincy  
602.257.5230  
squincy@steptoe.com

Elizabeth A. Schallop Call  
602.27.5208  
bcall@steptoe.com

Collier Center  
201 East Washington Street  
Suite 1600  
Phoenix, AZ 85004-2382  
Tel 602.257.5200  
Fax 602.257.5299  
steptoe.com

March 14, 2008

VIA FAX AND U.S. MAIL

Charles J. Rahill  
Investigator  
U. S. Equal Employment Opportunity Commission  
3300 North Central Avenue  
Suite 690  
Phoenix, Arizona 85012

Re: EEOC v. Bashas' Inc.  
Charge No. 540-2007-03122

Dear Mr. Rahill:

We received the Commission's February 21, 2008 Request for Information ("Request") in connection with the above-referenced Charge. This letter constitutes Bashas' Inc.'s response to your Request.

While you explain that "[t]he requests may cover some areas that you might consider irrelevant for two reasons," Bashas' remains unable to examine let alone determine the relevancy of any request because the Commission has not yet provided the company with sufficient notice of the basis of this Charge or this Request. See 29 C.F.R. § 1601.12(a) (3); *EEOC v. Shell Oil Co.*, 466 U.S. 54, 72-73 (1984). Once the Commission provides Bashas' with the specific information as to the basis of this Charge and this Request required by the statutory notice requirements, Bashas' will be able to evaluate what constitutes the relevant data and other documentation responsive to the Commission's Request. *Shell Oil*, 466 U.S. at 64 (holding that EEOC's investigative authority is not plenary; it is entitled only to evidence relevant to the charge under investigation); *EEOC v. United Airlines*, 287 F.3d 643, 652 ("[T]he Commission is entitled to access only to evidence 'relevant' to the charge under investigation."); *EEOC v. Ford Motor Credit Co.*, 26 F.3d 44, 47 (6<sup>th</sup> Cir. 1994) (rejecting the notion that the EEOC is entitled to any material that it deems relevant in its discretion). The Commission's refusal to do so deprives Bashas' of any meaningful manner to object to the Request.

More specifically, your February 21, 2008 Request does not specify the employees or the time period for which you seek the data and information. The Commission has not responded to our concern

Doc. #552627 v.1

Charles Rabill  
March 14, 2008  
Page 2

STEPTOE & JOHNSON LLP

with the December 6, 2007 Request for data for all Bashas' employees over the past five years.<sup>1</sup> On this basis alone, the Request is overly broad and unduly burdensome.

Additionally, the following requested data fields are not used or inconsistently populated, or contain data automatically supplied by the system which is not uniformly consistent for all employees:

- Employee Master File: Organizational Level;
- Employee Root Master File: Education (contains data from 2006 forward), Clock Number, Job Code 2, Job Code 3, Seniority Date 1, Seniority Date 2, Seniority Date 3, User Shift Field, Workman Empl Number, Union Code, Union ID Number, Length of Service Break, Keep Permanently, Rehire Eligibility Code, Hours Regularly Worked, Pay Grade Code, Performance Rating, Next Review Date, Next Review Type Code, Retirement Age, Comp Ratio, Layoff Flag, Promotion Code, Rating Score, Pay Grade Date, Step-In-Grade, Step Date, Freeze Step, Next Step Date, Next Step Override, Next Increase Date, Shift Code, Union Eligibility Date, Can EEO Occ. Grp., Training Group and Effective Date; and
- Employee Payroll Master File: Annual Wage Base, Pay Rate – 2<sup>nd</sup>, Pay Rate – 3<sup>rd</sup>, Pay Rate Basis, Multiplier Factor, Multiplier Name, Multiplier Column, Multiplier Row, Pay While on Leave, Weeks Worked – Quarter 0, Weeks Worked – Quarter 1, Weeks Worked – Quarter 2, Weeks Worked – Quarter 3 and Weeks Worked – Quarter 4.

Furthermore, the Commission's request for "at least two complete 'hard copy' personnel files or print screens for employees (or applicants) who have records on the files that you are providing" is both overly broad and ambiguous. It is our understanding based on the minimal information provided to date that this Charge pertains to compensation and promotion allegations. Therefore, it is unclear why applicant data would be relevant to this inquiry. Second, the Commission provides no explanation as to why it requires *multiple copies of the same files* in response to this Request. Surely, a single copy of each file will adequately allow the Commission to complete its verification process. Nonetheless, Bashas' will not produce any electronic data or hard copy files until an appropriate confidentiality agreement is executed.

Finally, we have grave concerns about where any information shared with the EEOC will go. For example, in a deposition in *Parra, et al v. Bashas*, the attorney for the class, Jocelyn Larkin, demonstrated that she was aware of a charge of discrimination then being investigated by the EEOC.

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<sup>1</sup> Bashas' objected to the December 6, 2007 Request for Information relating to those former Bashas' employees, who were not employed at the time that this Charge was filed on May 17, 2008. See *Dukes v. Wal-Mart, Inc.*, No. 04-16688 (9<sup>th</sup> Cir. 2007) (holding in a plaintiff's class action suit under Title VII, those putative class members who were no longer employees at the time plaintiff's complaint was filed do not have standing to pursue relief).

Charles Rahill  
March 14, 2008  
Page 2

STEPTOE & JOHNSON LLP

The EEOC had not yet filed suit against Bashas' on the charge and Ms. Larkin was not involved in the charge or representing the charging parties. Nonetheless, her questions demonstrated knowledge of the charge, in violation of federal law. Ms. Larkin's co-counsel on the case, Davis, Cowell and Bowe, represents the United Food and Commercial Worker's Union. As you may know, the UFCW is involved in a vicious smear campaign against Bashas'. To the extent any information is shared with either of these outside entities, we have serious concerns and our prior requests for assurances have not been sufficiently addressed.

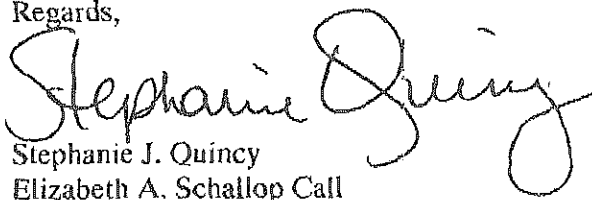
As the specific information requested includes confidential employee information, to the extent that Bashas' would be willing to provide this confidential employee information, it will do so only pursuant to a confidentiality agreement. We have enclosed a proposed confidentiality agreement for your review.

In prior letters, we have discussed our concern that this charge is being used as a vehicle to relitigate the *Parra* case after an adverse ruling. In light of this, we request assurances from your agency that the EEOC will not be used as a tool to circumvent the Rules of Civil Procedure. Enclosed is a confidentiality order which would address and resolve this issue.

We are hopeful that the Commission will recognize both its obligations to provide sufficient information to the company regarding the underlying allegations prompting this significant request and Bashas' interest in maintaining the confidentiality of any information produced in relation to this Charge given the rather unusual circumstances. However, if we are unable to reach an agreement on these issues, as we have stated previously, Bashas' will no choice but to leave this determination for a court.

We look forward to your response to our concerns. Please contact me at 602.257.5230 if you would like to discuss this further.

Regards,

  
Stephanie J. Quincy  
Elizabeth A. Schallop Call

## EXHIBIT H

UNITED STATES OF AMERICA  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SUBPOENA

TO: Edward N. Bashas Jr., Chairman and CEO  
Bashas' Inc.  
P. O. Box 488  
Chandler, AZ 85244

NO. PHX-08-24

IN THE MATTER OF: Vice Chair Silverman v. Bashas' Inc.

Charge No. 540-2007-03122

YOU ARE HEREBY REQUIRED AND DIRECTED TO:

☐ Testify before: ☐ Produce and bring \* or ☒ Mail \* the documents described below to:

☐ Produce access to the evidence described below for the purpose of examination or copying to:

Charles Rahill, Investigator (602) 640-5068

of the Equal Employment Opportunity Commission

at 3300 North Central Ave., Ste 690, Phoenix, AZ 85012 on June 13, 2008 at 4:00 o'clock

The evidence required is

All the documents which state, describe, constitute, refer to or relate in any way to the following

cc: Stephanie J. Quincy  
Steptoe & Johnson  
201 East Washington  
Suite 1800  
Phoenix, AZ 85004-2382

This subpoena is issued pursuant ☒ (Title VII) 42 U.S.C. 2000e-9 ☐ (ADEA) 29 U.S.C. 820(a) ☐ (EPA) 29 U.S.C. 200  
☐ (ADA) 42 U.S.C. 12117(a)

ISSUING OFFICIAL (Typed name, title and address)

ON BEHALF OF THE COMMISSION

fr Chester V. Bailey, District Director  
EEOC - Phoenix District Director  
3300 N Central Avenue - Ste 690  
Phoenix, AZ 85012

*Paul M...* 5/28/08  
Date

\*NOTICE TO PERSON SUBPOENAED - The Commission will not pay witness fees or travel expenses for the delivery of required documents to a Commission office unless the box "Testify before" is also checked on the subpoena.

**Attachment to Subpoena No. PHX-08-24**

**In Charge Number: 540-2007-03122**

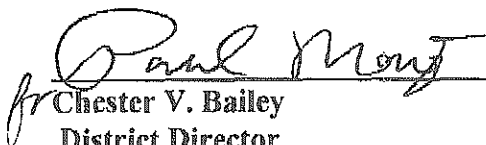
1. Provide the electronic or computerized data listed in the appendix that follows. The data request is for the period May 1, 2004 to present date.

Please redact social security numbers unless it is the sole unique identifier for an employee. Also note that only those date variables described as "8 DIGIT" are requested. It is assumed that these dates indicate, month, day and year. If this assumption is not correct, please provide for each requested type of date, the format meeting this condition.

The data should be provided on compact disk. It may be written in one of the following formats: Excel, Access or ASCII delimited ("csv"). Other formats may be acceptable if approved by the EEOC prior to submission. Regardless of format, EEOC asks that the first row consist of the field or variable names with subsequent rows for employee observations without blanks or repeating variable names or titles. There should be one column for each variable requested.

2. The compact disks should be clearly labeled to identify the contents. If possible, please print out some of the records, preferably the first 25 observations from each file. For each compact disk, a paper copy of the directory should be included, indicating the names of the database files, the number of bytes contained in each file, and a log of any queries used to export or import the data. If a computer file requires more than one compact disk, the data should be provided in a manner that does not require that the disks be restored in a particular order.
3. For each of the tables (files) produced, provide a definition of each of the fields of information on each record. Also, for each variable or field of information that contains a code to capture the value of the field, please define that code. For example, if "M" is in the field of information called "SEX OF EMPLOYEE," indicate what "M" means. Perhaps, "M" equals "male". These variable and code definitions must be provided in an EXCEL or WORD format or a format approved by the EEOC prior to submission.
4. Please provide at least two complete "hard copy" personnel files or print screens for employees (or applicants) who have records on the files that you are providing. This will enable us to make certain that we have successfully converted the automated data.

5/28/98  
Date

  
for Chester V. Bailey  
District Director  
Equal Employment Opportunity Commission  
3300 North Central Ave., Ste. 690  
Phoenix, AZ 85012

**APPENDIX****EMPLOYEE MASTER FILE**

<i>FIELD</i>	<i>FIELD DESCRIPTION</i>
PEER	EMPLOYER NUMBER
PEEN	EMPLOYEE NUMBER
PEPLVL	ORGANIZATIONAL LEVEL
PELNM	EMPLOYEE LAST NAME
PEFIT	EMPLOYEE FIRST INIT
PEPPOS	POSITION
PEPNM	PREVIOUS NAME
PEPJB8	LAST JOB CHANGE DATE-8 DIGIT
PEPL01	PREVIOUS LEVEL 1
PEPL02	PREVIOUS LEVEL 2
PEPL03	PREVIOUS LEVEL 3
PEPL04	PREVIOUS LEVEL 4
PEPDD8	LAST LEVEL CHAGNE DATE - 8 DIGIT
PEDOD8	DATE OF DEATH-8 DIGIT
PEPPPO	PREVIOUS POSITION

**EMPLOYEE NUMBER CHANGE HISTORY**

EITHER ALL VARIABLES OR STIPULATION THAT  
THERE ARE NO CHANGES TO EMPLOYEE NUMBER

**EMPLOYEE ROOT MASTER FILE**

<i>FIELD</i>	<i>FIELD DESCRIPTION</i>
PRER	EMPLOYER NUMBER
PREN	EMPLOYEE NUMBER
PRL01	LEVEL 1
PRL02	LEVEL 2
PRL03	LEVEL 3
PRL04	LEVEL 4
PRLNM	NAME - LAST
PRFNM	NAME - FIRST
PRMNM	NAME - MIDDLE INITIAL
PRSTR1	ADDRESS - STREET LINE 1
PRSTR2	ADDRESS - STREET LINE 2
PRCTY1	ADDRESS - CITY
PRSTA1	ADDRESS - STATE
PRSZIP1	ADDRESS - POSTAL CODE
PRDOB8	DATE OF BIRTH - 8 DIGIT
PRSEX	SEX OF EMPLOYEE
PRETH	ETHNIC ID
PREDU	EDUCATION
PRCLN	CLOCK NUMBER
PRDOH8	DATE OF HIRE - 8 DIGIT
PRDHA8	ADJUSTED DATE OF HIRE - 8 DIGIT
PREEO	EEO CATEGORY

PRCLA	CLASS
PRSTAT	STATUS CODE
PRLOC	LOCATION CODE
PRLAC	LABOR CATEGORY ,
PRPOS	POSITION
PRJOB1	JOB CODE 1
PRJOB2	JOB CODE 2
PRJOB3	JOB CODE 3
PRSR18	SENIORITY DATE 1 - 8 DIGIT
PRSR28	SENIORITY DATE 2 - 8 DIGIT
PRSR38	SENIORITY DATE 3 - 8 DIGIT
PRTITL	POSITION TITLE
PRSFT	USER SHIFT FIELD
PRWCC	WORKMAN EMPL CODE
PRWCN	WORKMAN EMPL NUMBER
PRUCD	UNION CODE
PRUID	UNION ID NUMBER
PRLVC	LEAVE CODE
PRLVD8	LEAVE DATE - 8 DIGIT
PRRLV8	EXPECTED RETURN FROM LEAVE DATE - 8 DIGIT
PRLBRK	LENGTH OF SERVICE BREAK
PRTEC	TERMINATION CODE
PRTED8	TERMINATION DATE - 8 DIGIT
PRPURG	KEEP PERMANENTLY
PRREC	REHIRE ELIGIBILITY CODE
PRREH8	REHIRE DATE - 8 DIGIT
PRRHR	HOURS REGULARLY WORKED
PRINF	PAY FREQUENCY
PRSRG	SALARY RANGE
PRBRT	BASE PAY RATE
PRPAY	PAY TYPE H-S
PRBRTF	BASE RATE FREQUENCY
PRPGR	PAY GRADE CODE
PRPSTA	PREVIOUS STATUS
PRSCH8	STATUS CHANGE DATE - 8 DIGIT
PRPR	PREVIOUS RATE
PRLRC8	DATE LAST RATE CHANGE - 8 DIGIT
PRLAMT	LAST INCREASE AMOUNT
PRLPER	LAST INCREASE PERCENT
PRRSN	LAST SALARY CHANGE REASON
PRPRAT	PERFORMANCE RATING
PRNRV8	NEXT REVIEW DATE - 8 DIGIT
PRNRVT	NEXT REVIEW TYPE CODE
PREFF8	EFFECTIVE DATE OF SALARY INCREASE - 8 DIGIT
PRRET	RETIREMENT AGE
PRPPLNM	PREVIOUS NAME
PRCOMP	COMP RATIO
PRLDW8	LAST WORKED DATE - 8 DIGIT
PRLAYO	LAYOFF FLAG
PRPROM	PROMOTION CODE

PRRVSC	RATING SCORE
PRPGR8	PAY GRADE DATE - 8 DIGIT
PRSTP	STEP-IN-GRADE
PRSTP8	STEP DATE - 8 DIGIT
PRSTPI	FREEZE STEP
PRNSP8	NEXT STEP DATE - 8 DIGIT
PRNSPO	NEXT STEP OVERRIDE
PRNIC8	NEXT INCREASE DATE - 8 DIGIT
PRCSPT	SHIFT CODE
PRUEL8	UNION ELIGIBILITY DATE - 8 DIGIT
PRSTGP	CAN EEO OCC. GRP.
PRTGRP	TRAINING GROUP
PRAFFH	EFFECTIVE DATE

**SUMMARIZED HISTORY INCOME FILE**  
ALL VARIABLES

**EMPLOYEE PAYROLL MASTER FILE**

FIELD	FIELD DESCRIPTION
PYER	EMPLOYER NUMBER
PYEN	EMPLOYEE NUMBER
PYYBAS	ANNUAL WAGE BASE
PYCYC	CYCLE CODE
PYPGRS	GROSS PAY LAST YEAR
PYGRS	GROSS PAY YTD
PYNET	NET PAY YTD
PYBRT	PAY RATE - 1ST
PYBRT2	PAY RATE - 2ND
PYBRT3	PAY RATE - 3RD
PYMTYP	PAY RATE BASIS
PYMFAC	MULTIPLIER FACTOR
PYMNAM	MULTIPLIER NAME
PYMCOL	MULTIPLIER COLUMN
PYMROW	MULTIPLIER ROW
PYPAYT	PAY AFTER TERMINATION
PYPAYL	PAY WHILE ON LEAVE
PYWW0	WEEKS WORKED - QUARTER 0
PYWW1	WEEKS WORKED - QUARTER 1
PYWW2	WEEKS WORKED - QUARTER 2
PYWW3	WEEKS WORKED - QUARTER 3
PYWW4	WEEKS WORKED - QUARTER 4
PYPWAG	GROSS WAGES LAST YEAR
PYWAGE	GROSS WAGES YTD
PYPHRS	HOURS LAST YEAR
PYHRS	HOURS YTD

**EMPLOYEE INCOME FILE**

NO DATA REQUESTED AT THIS TIME BUT RESERVE  
RIGHT TO REQUEST DATA AT A LATER DATE